

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.13031 OF 2005

DATED 10th FEBRUARY, 2006

BETWEEN

M.Ramulu

... Petitioners

and

The Commissioner, Bellampalli Municipality,
at Bellampalli, Adilabad District and another.

... Respondents

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION NO.13031 OF 2005

ORDER:

The petitioner is resident of Hanumanbasti of Bellampalli town of Adilabad District. He is running a kirana shop in the said Basti and claims that the land belongs to Singareni Collieries. He alleges that the first respondent at the behest of four persons started interfering in the business and trying to dispossess him. Apprehending coercive eviction, the present writ petition is filed seeking a writ of Mandamus declaring the action of the first respondent in trying to evict the petitioner as illegal and arbitrary. This Court while admitting the writ petition on 20.06.2005 stayed the eviction of the petitioner.

The first respondent has now come forward with an application being W.V.M.P.No.3294 of 2005 for vacating the interim order. At that stage itself, the matter was heard finally and is being disposed of finally with the consent of the learned counsel for the rival parties.

It is the case of the first respondent Municipality that the petitioner occupied a road portion and set up a bunk/tela within ten feet margin without obtaining permission of the Municipality under Sections 192 and 193 of A.P.Municipalities Act, 1965. The

allegation that the land belongs to Singareni Collieries is denied and it is contended that the public roads and lanes vests in the Municipality under the provisions of the Act and, unless and until a person obtains licence under Section 265 of the Act, he cannot carry on any business. It is further stated that on 08.06.2005, the Municipality received a representation from the residents of Hanumanbasti, alleging that the petitioner is creating obstruction in the lane leading to their houses by way of putting an illegal bunk/tela and opening a new door into the existing small lane. Therefore, the officials of the Municipality visited the area on 08.06.2005. The allegation that the officials of the first respondent are trying to dispossess the petitioner is denied. The petitioner and his wife, who filed W.P.No.12585 of 2005, stored pushcarts for let out on daily basis, causing/creating obstruction and inconvenience to the free passage in the locality.

The application to vacate the stay along with a counter affidavit is filed on 28.11.2005 but no reply affidavit is filed. A reading of the counter affidavit would show that the petitioner has encroached upon the road and put up a bunk and also stored pushcarts in the area. This would certainly cause inconvenience to the users of the passage. Therefore, the Municipality should take necessary action for eviction of the petitioner after following due process of law by issuing a notice. The allegation of the petitioner that the first respondent is trying to interfere with the possession cannot be accepted as it is stated in the counter affidavit that on 08.06.2005 so as to enquire into the complaint given by the residents of the locality, the inspection was done by the officials of the first respondent. This allegation is not denied.

In view of the above, the writ petition is disposed of giving liberty to first respondent to issue notice to the petitioner to take appropriate action in accordance with law for removing encroachment of the road.

(V.V.S.RAO,J)

10.02.2006

pln